

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SUSAN ROACH,

Plaintiff,

v.

MEYER BROTHERS ROOFING &  
SHEET METAL INC,

Defendant.

CASE NO. C14-5494 RBL

ORDER GRANTING  
DEFENDANT'S MOTION TO  
DISMISS

THIS MATTER is before the Court on Defendant Meyer Brothers' motion to dismiss Susan Roach's claims [Dkt. #7]. Roach is suing Meyer Brothers, her former employer, under 42 U.S.C. § 1983 for wrongful termination. Meyer Brothers contends that it cannot be held liable under § 1983.

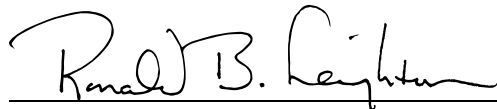
A plaintiff cannot assert a 42 U.S.C. §1983 claim for violation of his or her constitutional rights against any defendant who is not a state actor. *See West v. Atkins*, 487 U.S. 42, 48 (1988). This determination is made using a two-part test: (1) "the deprivation must . . . be caused by the exercise of some right or a privilege created by the government or a rule of conduct imposed by the government;" and (2) "the party charged with the deprivation must be a person who may

1 fairly be said to be a *governmental actor*.” *Sutton v. Providence St. Joseph Medical Center*, 192  
2 F.3d 826, 835 (9<sup>th</sup> Cir. 1999).

3 A private entity is not a governmental actor unless it “willfully participates in joint action  
4 with state officials to deprive others of constitutional rights.” *Taylor v. List*, 880 F.2d 1040, 1048  
5 (9th Cir.1989). Ms. Roach has failed to plead any facts that indicate Meyers Brothers is, or was  
6 acting as, a governmental actor. *See Lee v. Katz*, 276 F.3d 550, 553-54 (9th Cir.2002) (finding  
7 that it is plaintiff’s burden to establish the defendants were acting under color of state law when  
8 depriving a plaintiff of a federal right). Accordingly, the defendant’s motion to dismiss is  
9 GRANTED, and Ms. Roach’s 42 U.S.C. §1983 claim is dismissed WITH PREJUDICE. This  
10 dismissal, however, should not be construed as foreclosing the possibility or validity of other  
11 federal or state law claims Ms. Roach may have.  
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14 IT IS SO ORDERED.

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16 Dated this 22<sup>nd</sup> day of September, 2014.

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19 RONALD B. LEIGHTON  
20 UNITED STATES DISTRICT JUDGE  
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